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C O N F I D E N T I A L SECTION 01 OF 03 BAGHDAD 003446

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TAGS: [EPET](#) [ENRG](#) [PGOV](#) [EINV](#) [IZ](#)
SUBJECT: BRIEF MOVEMENT OF IRAQI HYDROCARBONS LAW

REF: A. BAGHDAD 3397
[B.](#) BAGHDAD 3309
[C.](#) BAGHDAD 471

Classified By: Economic Counselor Michael Dodman, reasons 1.4(b,d)

[¶](#)1. (C) Summary: The long-delayed Hydrocarbons Framework Law saw brief movement in recent days; it is not yet clear if this signifies a genuine thaw and some possibility of the legislation actually moving toward approval in the near future. The bill was unexpectedly forwarded to Parliament late last week, but within days it was returned to the cabinet on procedural grounds. Commercial pressures to reach a deal between Baghdad and the Kurdistan Regional Government (KRG) are growing. Former Oil Minister Thamir Ghadban suggested the KRG has an increased motivation to return to the negotiating table out of a need to be able to export crude oil output from its new fields and a desire to be included in the Ministry of Oil's tenders of technical service contracts to international oil companies. We also judge that the GOI, for its part, might want to come to an agreement in order to be able to export more crude oil quickly to compensate for sharp and steep declines in the global price for crude oil. End summary.

Confusing Media Reports

[¶](#)2. (U) According to media reports, the GOI's executive branch had forwarded the text of a "long-stalled oil and gas law" to Parliament's Oil and Gas Committee for its review and transmittal for a vote by the plenary Parliament, but that the Committee almost immediately returned the draft. Committee Chairman Ali Hussain Balou, a member of the Kurdistan Alliance Party, is quoted as saying, "Regrettably, the Cabinet has sent us a version that was altered by the Oil Ministry, which is different from the draft approved (by the Cabinet) in February 2007. We cannot accept it." Committee Deputy Chairman Abdul-Hadi al-Hassani told the press that discussions between the GOI and Kurdistan Regional Government (KRG) would continue to review and amend, if needed, production sharing contracts that the KRG has signed "to bring them in line with the proposed law." The Oil and Gas Committee apparently plans to meet with Prime Minister Maliki on November 4 to urge him to submit a draft that has full Cabinet approval.

[¶](#)3. (U) The press reports are conflicting regarding exactly when the draft law was submitted to Parliament and whether the legislation was the first or a later version of four drafts that Parliament had under review at various times over several months. We will meet with Chairman Balou on October 29 to seek clarification of the situation.

Background: Multiple Drafts

¶4. (SBU) The hydrocarbons legislation comprises four related draft laws. They are: (1) the Hydrocarbon Framework Law (HCFL); (2) the Revenue Management Law; (3) the Iraq National Oil Company (INOC) Reconstitution Law; and (4) the Ministry of Oil (MoO) Reorganization Law. The most negotiations have taken place over the first two pieces of legislation, the HCFL and the Revenue Law, since the central government and KRG differences are sharpest over the two drafts. At one time, by agreement between the GOI and KRG, they were to be submitted to the Council of Representatives (COR, i.e., Parliament) together, but, according to press reporting, Committee Deputy Chairman Hassani has said that the three related laws are no longer being considered as a package with the HCFL.

¶5. (U) Law 85 of 1985 grants authority over Iraqi oil to the Ministry of Oil, and allows the MoO to enter into contracts with private companies, either Iraqi or foreign, to engage in petroleum production in Iraq without specifying the criteria or conditions for such contracts. The HCFL updates the legislation by requiring that contracts undergo a rigorous review process instead of simply being undertaken with the Minister's approval. The HCFL would allow MoO to enter into a number of contractual arrangements, including production sharing contracts, and otherwise contract for oil fields services. The new law establishes a Federal Oil and Gas Council to oversee and regulate the petroleum sector at the same time that it requires INOC establishment as an entity separate from MoO to carry out petroleum sector operations. The HCFL also establishes guidelines for exploration and development of fields, pipeline management, utilization of natural gas, and resolution of contract disputes.

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¶6. (U) By our count, there are at least three HCFL versions: one that the Council of Ministers (COM, i.e., Cabinet) approved on February 26, 2007, and two from July 2007, the latter two incorporating edits from the Shura (Consultative) Council. All three versions, at one time or another, have been submitted to the COR and then subsequently withdrawn or not acted upon. The February 2007 draft of the HCFL includes annexes that classify Iraq's oil fields into four categories based on their level of development and identify those fields open to private investment: currently producing fields assigned to INOC, discovered undeveloped fields assigned to INOC, discovered undeveloped fields outside INOC operations; and exploration areas.

¶7. (C) In a nutshell, GOI negotiators have consistently pushed for a stronger role for the central government in both the HCFL and the Revenue Law. In addition, the GOI at every turn has attempted to strengthen the power of INOC and MoO at the expense of regional authority. The Kurdish objective, on the other hand, is to structure a law that gives maximum authority and independence to the regions in petroleum development and revenue sharing. The Kurds also have pushed for more explicit language on many issues, as opposed to more general formulations preferred by the GOI, in order to prevent future attempts to dilute Kurdish rights by flexible interpretations by the GOI when the laws are implemented.

Former Oil Minister Ghadban's Take

¶8. (U) On October 21, Chairman of the Prime Ministerial Advisory Committee (PMAC) Thamir Ghadban, and chief drafter of the HCFL draft, hinted at a possible break in the hydrocarbons law stalemate during a discussion with retired FSO and former Ambassador to Tunisia Robin Raphael, visiting Baghdad as part of the Joint Campaign Plan Assessment Team. (Note: Ghadban and Raphael know each other well, from the period when he was Oil Minister, 2004-2005, in the interim government under Iyad Allawi and Raphael was serving as deputy in the Special Inspector General for Iraq Reconstruction, SIGIR.)

¶9. (C) Ghadban said he believed that KRG is inclined to take a pragmatic approach, since international oil companies (IOCs) had invested to bring oil and gas production on line, but they had no way to export it. In August, a technical team had gone to KRG for a discussion on technical aspects only regarding how to connect Norwegian company DNO's pipeline to the Kirkuk-Ceyhan pipeline. Turkish Genel Enerji (note: which is partnered with Swiss company Addax Petroleum) also needs to find an outlet for its production from the Taq-Taq field. Each of the fields could produce up to 120,000 barrels per day (bpd). Even an additional 100,000 bpd, Ghadban noted, could add significantly to Iraq's exports. When the KRG production was mixed with other Iraqi oil, then the MoO State Oil Marketing Organization (SOMO) had to sell it. To cover the KRG's costs, however, MoO would need to review the KRG contracts. Ghadban suggested that the developments could be the catalyst for a constructive dialogue. He noted that, under such circumstances, "wisdom and common sense might prevail."

¶10. (C) Ghadban said, however, there had been problems in the way the KRG had proceeded. The KRG had also pressed forward with concluding nearly two dozen contracts in the face of GOI warnings not to do so, and even concluded deals in disputed areas. The KRG's production sharing agreements (PSAs) had also been concluded without any bidding but as sole-source contracts. KRG had previously agreed to publish any signed contracts, but KRG had never published them, only a model contract with no dollar amounts or figures filled in. Ghadban asked rhetorically, "how else could one ensure transparency?"

¶11. (C) Ghadban used much the same language as Oil Minister Shahristani (ref B) when he said the hydrocarbons legislation had become entangled in the strained relations between the KRG and central government, such as the status of Kirkuk, Article 140 disputed areas, peshmergas, etc. The oil law and the revenue-sharing law were of concern to KRG, but he had no doubt that the KRG had blocked it. The KRG, which had obstructed hydrocarbons legislation to prevent the central government from forming deals with IOCs, was now being pressed by the licensing round (ref A) and evidence that the central government had found a work-around to the absence of legislation. Ghadban reiterated that "the only solution would be a pragmatic approach."

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Comment: Changing Fundamentals?

¶12. (C) We agree with Ghadban that the KRG's motivation for returning to the negotiating table might be increasing. We also think that the falling price of crude oil increases the GOI's motivation to do the same. When the price of benchmark crude, which is usually around ten dollars more than Iraqi crude, falls ten dollars or more below the estimate of \$80 per barrel used initially to formulate the 2009 budget, the GOI has a reason to want to boost crude export volumes to make up for the shortfall. The only short-term way to do so would be to market the production from the new KRG fields. Although the fate of hydrocarbons legislation could still be tied up in larger issues between the GOI and KRG, both sides would also have an interest in treating it as a separate and parallel issue, rather than waiting for the larger issues to be definitively resolved.

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